IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 7392 of 2005

Between:

B.P. Malla Naik, S/o. Siddaiah Naik,
R/o. Pandyala Pally, Poolukunta Tanda,

Kurnool District.

..... PETITIONER

AND

1 The A.P. State Road Transport Corporation,

Rep by its Managing Director, Musheerabad,Hyderabad.
2 The Regional Manager APSRTC, Kurnool Region,

Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ order or writ more particular one in the nature of Writ of Mandamus declaring the order passed by the 2nd Respondent in proceedings No. E2/E6/684(1)/99-RM'C' dt. 22-10-202 deleting the petitioner's name from the select list as illegal, unjust, amounts to an act of victimization and unfair labour practice and also violative of Article 14, 16 and 21 of Constitution of India and pass such other order or orders as this Hon'ble Court may deems fit and proper under the circumstances of the case.

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for the Respondent Nos.1 and 2: MR.P.VINAYAKA SWAMY (SC FOR APSRTC)

The Court at the admission stage made the following:

ORDER:

Challenging the action of the 2nd respondent in deleting the name of the petitioner from the selection list through proceedings dated 22.10.2002, the present writ petition is filed.

The petitioner worked as a Driver in the respondent Corporation. He was selected as a Driver in the year 1999 through the selection committee.

The petitioner contends that he fell sick on 13.10.2001 and underwent treatment for a period of one month. He further contends that during the strike period of the regular employees from 15.10.2001 to 07.11.2001 the petitioner was directed to report to duty through paper publication, but due to lack of information and due to his illness he did not report to duty. Subsequently, when he reported to duty, he was informed that his name was deleted from the selection list, without issuing charge sheet or show cause notice. The 2nd respondent passed an order on 22.10.2002 deleting the name of the petitioner from the approved list of selected candidates. Hence the present writ petition is filed.

It is not in dispute that the petitioner was selected on the basis of regular selection. His services were being utilized as casual Drivers as and when required. The petitioner contends that he did not receive any notice or charge memo and later came to know that his name was deleted from the list of selected candidates. As seen from the impugned proceedings, the respondent Corporation made a paper publication, directing the casual workers to report duty during strike period of regular employees from 15.10.2001 to 07.11.2001, but there is no individual intimation, directing the petitioner to report duty.

Under the similar circumstances, a Division Bench of this Court gave a judgment on 29.08.2003 in Writ Appeal No.1259 of 2003, upholding the order of the learned single Judge who held that it is not permissible for the Corporation to remove the name of the workman from the selected list, when the selection was made through a regularly constituted board. In the present case also, if the Corporation comes to a conclusion that non-reporting to duty amounts to dereliction of duty, the Corporation is at liberty to initiate action against the petitioner and after a detailed inquiry, may pass appropriate orders according to Rules, but, without giving any opportunity, removing the name of the petitioner from the list of selected candidates is against the principles of natural justice. The action of the 2nd respondent in removing the name of the petitioner from the list of selected candidates is arbitrary. Therefore, such action is liable to be corrected by directing the respondents to restore the name of the petitioner to the selection list.

In the light of the above circumstances, the action of the respondents in deleting the name of the petitioner from the list of selected candidates is quashed. The respondents are directed to restore the name of the petitioner into the list of selected candidates and continue to engage him as he used to be engaged previously till an action, if any, taken by the respondents for the absence of the petitioner and the punishment, if any, going to be imposed.

With the above said observations, the Writ Petition is allowed. No order as to costs.

Dated: 05.04.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Managing Director,

APSRTC, Musheerabad,

Hyderabad

2. The Regional Manager, APSRTC,

Kurnool Region, Kurnool District

3. Two CD copies

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